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10/829,154	04/22/2004	Takashi Aketa	0171-1087PUS1	5733
2292 7590 02/10/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER FISCHER, JUSTIN R				
ART UNIT		PAPER NUMBER		
1791				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/829,154

Applicant(s)

AKETA ET AL

Examiner

Justin R. Fischer

Art Unit

1791

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 12-17 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 12-17 and 19-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 12-17, 19, and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the APA and further in view of Fujiki (US 5,438,094), Ichikawa (US 6,501,495), and Takuman (EP 1225211).

The APA discloses a method of preparing an air bag, said method comprising: furnishing a pair of base fabric pieces impregnated and/or coated with silicone rubber, laying the pieces one on the other with the coated surfaces of the pieces inside, and bonding or stitching peripheral portions of the pieces together to form a bag (Page 1, Lines 17-22). In this instance, though, the APA fails to disclose the use of the claimed adhesive silicone rubber composition. Fujiki, on the other hand, discloses the claimed adhesive silicone rubber composition and suggests that it has a high degree of adherence to metals and additional resins (can be viewed as including rubbers). It is particularly noted that Fujiki suggests an adhesive composition comprising a filler in the form of, for example, alumina (aluminum oxide), silica, and/or carbon black (Column 9, Lines 1-10). While the reference fails to expressly disclose the use of aluminum hydroxide, metal oxides and metal hydroxides are commonly described as being suitable alternatives in adhesive compositions, as shown for example by Ichikawa

(Column 10, Lines 23-33). Absent any conclusive showing of unexpected results, one of ordinary skill in the art at the time of the invention would have found it obvious to use alumina hydroxide in the adhesive composition of Fujiki. Also, one of ordinary skill in the art at the time of the invention would have recognized such language as including embodiments in which only aluminum hydroxide is used and embodiments in which aluminum hydroxide, carbon black, and/or silica are used.

Lastly, with respect to the independent claim, one of ordinary skill in the art at the time of the invention would have expected the adhesive silicone rubber compositions of Fujiki to demonstrate the claimed elongation (based on extreme similarity of adhesive compositions). Takuman is further applied to demonstrate the elongation values associated with similar adhesives (Table 1).

Regarding claim 2, the aluminum hydroxide powder can be untreated.

As to claim 3, the claimed range is consistent with the dimensions of aluminum hydroxide powder used in adhesive compositions.

Regarding claims 12-17, one of ordinary skill in the art at the time of the invention would have recognized the broad range of the claimed invention as being consistent with the loadings conventionally used with additives, including inorganic fillers. Absent any conclusive showing of unexpected results, one of ordinary skill in the art at the time of the invention would have found it obvious to include aluminum hydroxide powder in accordance to the claimed invention.

As to claim 19, the adhesive silicone rubber composition of Fujiki includes silicon atom-bonded hydrogen atoms in accordance to the claimed invention (Column 4, Lines

35-45). Additionally, (a) the platinum catalyst is included at a loading between 0.1 and 1,000 parts by weight of platinum group metal per million parts by weight of the composition and (b) the filler is included at a loading between 10 and 150 parts by weight of the organopolysiloxane (Column 9, Lines 10-20).

As to claims 21 and 22, one of ordinary skill in the art at the time of the invention would have recognized the general silica disclosure of Fujiki as including fumed silica (represents one of the most common forms of silica). Furthermore, the claimed loadings are consistent with those detailed by Fujiki (Column 9, Lines 15-18).

With respect to claims 23 and 24, applicant has not provided a conclusive showing of unexpected results to establish a criticality for the claimed combination. It is emphasized that the references generally recognize the inclusion of silica and/or aluminum hydroxide.

3. Claims 1-7, 12-17, and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the APA and further in view of Tsuji (EP 764702), Ichikawa, and Takuman.

The APA discloses a method of preparing an air bag, said method comprising: furnishing a pair of base fabric pieces impregnated and/or coated with silicone rubber, laying the pieces one on the other with the coated surfaces of the pieces inside, and bonding or stitching peripheral portions of the pieces together to form a bag (Page 1, Lines 17-22). In this instance, though, the APA fails to disclose the use of the claimed adhesive silicone rubber composition. Tsuji, on the other hand, discloses the use of a liquid silicone rubber composition that satisfies the claimed adhesive composition and is

described as providing high adhesive properties (Abstract, Page 2, Lines 1-50). One of ordinary skill in the art at the time of the invention would have found it obvious to use the liquid silicone rubber composition of Tsuji in the method of the APA. It is emphasized that such liquid silicone rubber compositions are conventionally used in a wide variety of applications, including adhesives, sealing materials, potting materials, coating materials, etc. In this instance, one of ordinary skill in the art at the time of the invention would have found it obvious to use the liquid silicone rubber composition of Tsuji in the bonding method of the APA.

As to the filler, the composition of Tsuji can include a wide variety of fillers, including silica and aluminum oxide (Page 3, Lines 10-20). While the reference fails to expressly disclose the use of aluminum hydroxide, metal oxides and metal hydroxides are commonly described as being suitable alternatives in adhesive compositions, as shown for example by Ichikawa (Column 10, Lines 23-33). Absent any conclusive showing of unexpected results, one of ordinary skill in the art at the time of the invention would have found it obvious to use alumina hydroxide in the adhesive composition of Fujiki. Also, one of ordinary skill in the art at the time of the invention would have recognized such language as including embodiments in which only aluminum hydroxide is used and embodiments in which aluminum hydroxide, carbon black, and/or silica are used.

Lastly, with respect to the independent claim, one of ordinary skill in the art at the time of the invention would have expected the adhesive silicone rubber compositions of Fujiki to demonstrate the claimed elongation. Takuman is further applied to demonstrate

the elongation values associated with similar adhesives (Table 1). It is further noted that Takuman recognizes the known use of similar liquid silicone rubber compositions in a wide variety of applications, including coatings and adhesives (Paragraph 2).

Regarding claim 2, the method of Tsuji involves surface treating the respective fillers (Page 3, Lines 15-20).

As to claim 3, the claimed range is consistent with the dimensions of aluminum hydroxide powder used in adhesive compositions.

With respect to claim 4, the composition of Tsuji includes an organopolysiloxane (component B) (Page 3, Lines 1-7).

Regarding claim 5 (dependent from claim 4), the composition of Tsuji is described as including a treated filler. The reference specifically teaches the use of organosilicon compounds for such a treatment, including organosilanes (Page 3, Lines 15-20). While the reference fails to expressly suggest the use of organoalkoxysilanes, such additives are a specific type of organosilane that are commonly used in treating fillers, as shown for example by Takuman (Paragraph 18). Absent any conclusive showing of unexpected results, one of ordinary skill in the art at the time of the invention would have found it obvious to include an organoalkoxysilane in the composition of Tsuji.

As to claims 6 and 7, the composition of Tsuji includes an organic titanium compound (component G).

Regarding claims 12-17, one of ordinary skill in the art at the time of the invention would have recognized the broad range of the claimed invention as being consistent

with the loadings conventionally used with additives, including inorganic fillers. Absent any conclusive showing of unexpected results, one of ordinary skill in the art at the time of the invention would have found it obvious to include aluminum hydroxide powder in accordance to the claimed invention.

As to claim 19, the adhesive silicone rubber composition of Tsuji includes silicon atom-bonded hydrogen atoms in accordance to the claimed invention (Page 1, Lines 35-38). Additionally, (a) the platinum catalyst is included at a loading between 0.1 and 500 parts by weight of platinum group metal per million parts by weight of the composition and (b) the filler is included at a loading between 5 and 100 parts by weight of the organopolysiloxane (Page 1, Lines 32-35).

With respect to claim 20, the organopolysiloxane is included at a loading between 5 and 100 phr and the organohydrogenpolysiloxane is blended in such an amount that 0.6-20 moles of silicon-bonded hydrogen in the organohydrogenpolysiloxane are present per mole of alkenyl radicals in the organopolysiloxane. One of ordinary skill in the art at the time of the invention would expect the composition of Tsuji to satisfy the claimed range even if it is based on the combination of moles in components (i) and (v) of the claimed invention (as currently drafted, claims define the number of moles in component (i) and the inorganic filler).

As to claims 21 and 22, one of ordinary skill in the art at the time of the invention would have recognized the general silica disclosure of Fujiki as including fumed silica (represents one of the most common forms of silica). Furthermore, the claimed loadings are consistent with those detailed by Fujiki (Column 9, Lines 15-18).

With respect to claims 23 and 24, applicant has not provided a conclusive showing of unexpected results to establish a criticality for the claimed combination. It is emphasized that the references generally recognize the inclusion of silica and/or aluminum hydroxide.

Response to Arguments

4. Applicant's arguments filed January 2, 2009 have been fully considered but they are not persuasive.

Applicant argues that aluminum hydroxide and silica are merely listed among many kinds of inorganic and organic fillers and thus fails to disclose or suggest the claimed combination.

As detailed above, the adhesive composition of Fujiki suggests the use of a wide variety of inorganic fillers, including aluminum oxide (alumina) and silica. A fair reading of Fujiki suggests that these fillers are exemplary and one of ordinary skill in the art at the time of the invention would have readily appreciated the use of additional inorganic fillers, such as aluminum hydroxide. In particular, metal oxides and metal hydroxides are commonly described as being suitable alternatives in adhesive compositions, as shown for example by Ichikawa (Column 10, Lines 23-33). As such, one of ordinary skill in the art at the time of the invention would have found it obvious to include silica and aluminum hydroxide in the adhesive composition of Fujiki.

In regards to Table II, applicant contends that the experiments demonstrate a conclusive showing of unexpected results. The examiner respectfully disagrees. As currently drafted, the independent claim simply requires the general inclusion of silica

and aluminum hydroxide. Comparative Examples 3 and 4 and Example 1, however, are directed to a single composition in which the inorganic filler(s) have a loading of 56 phr. It is unclear if any realized benefits are (a) a function of the total inorganic filler loading (e.g. if a total of 80 phr of inorganic filler were present, would any realized benefits exist), (b) a function of the specific loadings of the individual inorganic fillers (e.g. if the aluminum compounds were included at a loading of 5 phr, would any realized benefits exist), and/or (c) a function of including a greater amount of aluminum compound, as compared to silica (e.g. if a greater amount of silica was used, as compared to the aluminum compound, would any realized benefits exist). It is emphasized that the claims simply require the general inclusion of aluminum hydroxide and silica and the data in Table II does not provide a conclusive showing of unexpected results for the general inclusion of the aforementioned inorganic fillers.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Justin R. Fischer** whose telephone number is **(571) 272-1215**. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Justin Fischer
/Justin R Fischer/
Primary Examiner, Art Unit 1791
February 3, 2009

